



# THE CENTER FOR FOOD SAFETY

660 PENNSYLVANIA AVE., SE, SUITE 302, WASHINGTON, DC 20003  
(202) 547-9359 • FAX (202) 547-9429  
2601 MISSION ST., SUITE 803, SAN FRANCISCO, CA 94129  
(415) 826-2770 • FAX (415) 826-0570  
WWW.CENTERFORFOODSAFETY.ORG

12 June 2006

Mark A. Bradley  
Associate Deputy Administrator  
Transportation and Marketing Programs  
National Organic Program  
1400 Independence Ave., SW  
Room 4008-So., Ag Stop 0268  
Washington DC 20250

RE: Docket No. TM-05-14

## **Comments on National Organic Program's ANPRM - Access to Pasture (Livestock)**

Pursuant to the National Organic Program's (NOP) notice in the Federal Register, the Center for Food Safety (CFS) submits the following information and comments concerning Access to Pasture (Livestock). 71 Fed Reg 19131 (Apr. 13 2006). CFS is a non-profit, membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. See generally <http://www.centerforfoodsafety.org>. CFS has also provided other comments on this ANPRM through its participation in the National Campaign for Sustainable Agriculture and the National Organic Coalition (endorsing the comments submitted by the Northeast Organic Dairy Producers Association).

More specifically, the ANPRM sought responses to a number of questions. CFS provides the following responses.

### **Issues of Consumer Preference**

Are there market-based or other types of research to substantiate an expectation by consumers that organic milk comes from dairy cows raised on **pasture**? Is there evidence, data, or other types of research that the role of **pasture** as it exists in the regulations does not support consumers' beliefs about the relationship between organic milk and organic dairy cows?

### Response 1: CFS Polling Data

In an effort to address these questions the CFS commissioned a national polling firm to address this issue. The full data set is attached accompanying these comments. The data suggest that if the USDA does not require stringent regulations that organic cows be raised for a significant period of time outdoors and on pasture, there could be substantial erosion of the organic milk market. The poll asked two questions:

First, how often do you purchase organic milk?

1. Frequently [ASK Q2]
2. Seldom [ASK Q2]
3. Never
9. Don't know
0. Refused

Second, if you knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives, would you still purchase organic milk?

1. Yes
2. No
9. Don't know
0. Refused

The results found that 19% of Americans purchase organic milk. The data also present a clear picture of consumer expectations concerning the pasture requirements for organic milk production.

Some of the results were as follows:

- A majority of organic milk purchasers (51%) say they would no longer purchase organic milk if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Maybe even more significantly, almost half of the frequent organic milk purchasers would alter their purchasing habits:

- Forty-four percent (44%) of those who frequently purchase organic milk would no longer do so if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Moreover, women (the principal family food purchasers) are even more apt to change their organic milk purchasing habits:

- Sixty-one percent (61%) of women who purchase organic milk either frequently or seldomly would no longer do so if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Finally, the data show that if organic milk producers hope to grow the organic milk market by changing seldom purchasers into frequent purchasers, a strong pasture requirement should be put in place because:

- Fifty-eight percent (58%) of consumers that seldom purchase organic milk state they would not purchase organic milk if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

The national polling was conducted by the firm American Viewpoint. This data is from a national survey of 1011 U.S. adults conducted March 29 through April 3, 2006. The margin of error for the entire sample is plus or minus 3% at the 95% confidence level. The margin of error for the organic milk consumers (n=188) is plus or minus 7.2% at the 95% confidence. Full data from this poll is attached and available at <http://www.centerforfoodsafety.org>. CFS notes that the sample size used in it polling is consistent with the survey sample size used by the California Institute for Rural Studies, in its USDA-AMS funded study, "Regulating Organic: Impacts of the National Organic Standards on Consumer Awareness and Organic Consumption Patterns."

#### Response 2: Data from Original NOP Rulemaking

Based upon its review of public comments from the first proposed National Organic Program regulations, CFS strongly believes that the public has continuously expected the organic standards to be a standard dedicated to providing real outdoor access to livestock including pasture for dairy animals. Of the 201,794 public comments CFS reviewed during the rulemaking 29% of the public comments supported regulations with strong outdoor access requirements such as pasture. Indeed, outdoor access was the sixth most commented upon issue area in the rulemaking ranking only behind the "Big Three" (genetic engineering, irradiation and sewage sludge), NOSB authority and the use of antibiotics.

As result of this data and the scientific data submitted in the other referenced comments, CFS urges the NOP to adopt a mandatory verifiable regulatory requirement for pasture that clearly excludes confined animal feeding operations. At a minimum, this new regulation should be drafted so as to contain the NOSB's Recommendations for Pasture Requirements for Ruminants dated November 17, 2005 and regulatory amendments (not just goals in the organic system plan) requiring grazed feed greater than 30 percent dry matter intake on a daily basis during the growing season but not less than 120 days. This dry matter intake recommendation is in keeping with dairy business definitions used by Cornell University and the University of Wisconsin, which define grazing farms as those which provide at least 30 to 40 percent of dry matter from foraging pasture during the grazing season. CFS also strongly supports the NOSB's proposed amendments to §205.239 and §205.237 that specifically define the term stage of "life" and ensure that dairy animals that are lactating cannot be confined based upon a vague "stage of production" temporary confinement standard.

CFS requests that the agency move quickly to adopt these regulatory changes so that integrity of the organic regulations is maintained and consumer confidence in organic products is not diminished through weak standards or enforcement policies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph Mendelson III". The signature is written in a cursive style with a large, sweeping initial "J" and a distinct "R" at the end.

Joseph Mendelson III  
Legal Director

Attach.

TABLE 001  
OR-- How often do you purchase organic milk...?  
Base: Total Respondents

	SEX		AGE				HOUSEHOLD INCOME				REGION				EDUCATION				RACE		MILK USER			
	FE- TOTAL MALE		18-34	35-44	45-54	55-64	65+	UNDER \$25K	\$25K- \$49.9	\$50K- \$74.9	\$75K+	NORTH	EAST	SOUTH	WEST	H.S. LESS	SOME COLL	POST COLL	WHITE	BLACK (NET)	FREQ	SELD		
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)	(T)	(U)	(V)	(W)	(X)
TOTAL UNWEIGHTED	1011	506	169	141	202	200	269	213	138	203	252	357	199	343	255	390	876	82	188	83	105			
TOTAL WEIGHTED	2147	1037	1110	671	435	411	284	320	439	281	447	408	484	769	486	1021	549	529	1763	233	403	208	195	
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Frequently	208	105	103	113GH	36	30	7	18	57	31	15	63	30	34	97	46	94	63	48	177	21	208X	208VX	
	9.7	10.1	9.3	16.8	8.4	7.4	2.3	5.5	13.2	7.0	5.3	14.0	7.4	7.1	12.7	9.5	9.2	11.5	9.1	10.0	8.9	51.6	100.0	
Seldom	195	109	87	64	56	30	19	26	40	36	26	43	45	40	47	63	84	43	63	143	27	195W	195VW	
	9.1	10.5	7.8	9.5	12.8	7.3	6.9	8.2	8.0	8.2	9.4	9.6	11.1	8.4	6.2	12.9	8.2	7.8	12.0	8.1	11.7	48.4	100.0	
Never	1698	784	914	480	334	345	251D	266	382	365	238	341	331	390	616	361	809	438	411	1399	185			
	79.1	75.6	82.4	71.6	76.8	84.0	88.6	83.5	75.7	82.9	84.5	76.3	81.2	80.7	80.0	74.3	79.3	79.7	77.8	79.3	79.3			
Don't know	45	39C	6	14	9	5	6	10	16	8	2	1	2	18	9	16	34	6	5	45				
	2.1	3.8	0.5	2.1	2.1	1.3	2.1	3.1	3.1	1.8	0.7	0.1	0.4	3.8	1.1	3.3	3.3	1.0	1.0	2.5				
Refused	1	1					0	0			0			0		0					0			
	* 0.1						0.1	0.1			0.1			0.1		0.1					0.1		0.2	



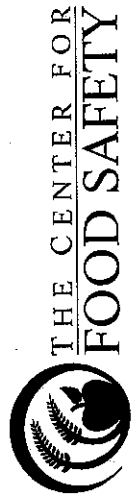
660 PENNSYLVANIA AVE., SE, SUITE 302, WASHINGTON, DC 20003  
(202) 547-9359 \* FAX (202) 547-9429  
2601 MISSION ST., SUITE 803, SAN FRANCISCO, CA 94129  
(415) 826-2770 \* FAX (415) 826-0570  
WWW.CENTERFORFOODSAFETY.ORG

(sig=.05) (n,k) columns tested BC, DEFGH, IJKL, MNOP, QRS, TU, VWX  
Note: Percentage less than 0.05 printed as \*  
Note: Frequencies are reported in 100,000's.  
2147 = 214,700,000 which represents the U.S. Population 18 years of age or older.

OR-2. If you knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives, would you still purchase organic milk?  
Base: Total Respondents that purchase organic milk

TABLE 002

SEX	HOUSEHOLD INCOME										REGION				EDUCATION			RACE		MILK USER																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
	AGE					INCOME					NORTH		SOUTH		WEST		H.S. LESS		SOME COLL.		POST COLL.		WHITE		BLACK (NET)		FREQU SELDM																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
	18-34	35-44	45-54	55-64	65+	UNDER \$25K	\$25K-\$49.9	\$49.9-\$74.9	\$75K+	%	EAST	CNTRL	SOUTH	WEST	(O)	(P)	(Q)	(R)	(S)	(T)	(U)	(V)	(W)	(X)	(Y)	(Z)	(AA)	(AB)	(AC)	(AD)	(AE)	(AF)	(AG)	(AH)	(AI)	(AJ)	(AK)	(AL)	(AM)	(AN)	(AO)	(AP)	(AQ)	(AR)	(AS)	(AT)	(AU)	(AV)	(AW)	(AX)	(AY)	(AZ)	(BA)	(BB)	(BC)	(BD)	(BE)	(BF)	(BG)	(BH)	(BI)	(BJ)	(BK)	(BL)	(BM)	(BN)	(BO)	(BP)	(BQ)	(BR)	(BS)	(BT)	(BU)	(BV)	(BW)	(BX)	(BY)	(BZ)	(CA)	(CB)	(CC)	(CD)	(CE)	(CF)	(CG)	(CH)	(CI)	(CJ)	(CK)	(CL)	(CM)	(CN)	(CO)	(CP)	(CQ)	(CR)	(CS)	(CT)	(CU)	(CV)	(CW)	(CX)	(CY)	(CZ)	(DA)	(DB)	(DC)	(DD)	(DE)	(DF)	(DG)	(DH)	(DI)	(DJ)	(DK)	(DL)	(DM)	(DN)	(DO)	(DP)	(DQ)	(DR)	(DS)	(DT)	(DU)	(DV)	(DW)	(DX)	(DY)	(DZ)	(EA)	(EB)	(EC)	(ED)	(EE)	(EF)	(EG)	(EH)	(EI)	(EJ)	(EK)	(EL)	(EM)	(EN)	(EO)	(EP)	(EQ)	(ER)	(ES)	(ET)	(EU)	(EV)	(EW)	(EX)	(EY)	(EZ)	(FA)	(FB)	(FC)	(FD)	(FE)	(FF)	(FG)	(FH)	(FI)	(FJ)	(FK)	(FL)	(FM)	(FN)	(FO)	(FP)	(FQ)	(FR)	(FS)	(FT)	(FU)	(FV)	(FW)	(FX)	(FY)	(FZ)	(GA)	(GB)	(GC)	(GD)	(GE)	(GF)	(GG)	(GH)	(GI)	(GJ)	(GK)	(GL)	(GM)	(GN)	(GO)	(GP)	(GQ)	(GR)	(GS)	(GT)	(GU)	(GV)	(GW)	(GX)	(GY)	(GZ)	(HA)	(HB)	(HC)	(HD)	(HE)	(HF)	(HG)	(HH)	(HI)	(HJ)	(HK)	(HL)	(HM)	(HN)	(HO)	(HP)	(HQ)	(HR)	(HS)	(HT)	(HU)	(HV)	(HW)	(HX)	(HY)	(HZ)	(IA)	(IB)	(IC)	(ID)	(IE)	(IF)	(IG)	(IH)	(II)	(IJ)	(IK)	(IL)	(IM)	(IN)	(IO)	(IP)	(IQ)	(IR)	(IS)	(IT)	(IU)	(IV)	(IW)	(IX)	(IY)	(IZ)	(JA)	(JB)	(JC)	(JD)	(JE)	(JF)	(JG)	(JH)	(JI)	(JJ)	(JK)	(JL)	(JM)	(JN)	(JO)	(JP)	(JQ)	(JR)	(JS)	(JT)	(JU)	(JV)	(JW)	(JX)	(JY)	(JZ)	(KA)	(KB)	(KC)	(KD)	(KE)	(KF)	(KG)	(KH)	(KI)	(KJ)	(KK)	(KL)	(KM)	(KN)	(KO)	(KP)	(KQ)	(KR)	(KS)	(KT)	(KU)	(KV)	(KW)	(KX)	(KY)	(KZ)	(LA)	(LB)	(LC)	(LD)	(LE)	(LF)	(LG)	(LH)	(LI)	(LJ)	(LK)	(LL)	(LM)	(LN)	(LO)	(LP)	(LQ)	(LR)	(LS)	(LT)	(LU)	(LV)	(LW)	(LX)	(LY)	(LZ)	(MA)	(MB)	(MC)	(MD)	(ME)	(MF)	(MG)	(MH)	(MI)	(MJ)	(MK)	(ML)	(MN)	(MO)	(MP)	(MQ)	(MR)	(MS)	(MT)	(MU)	(MV)	(MW)	(MX)	(MY)	(MZ)	(NA)	(NB)	(NC)	(ND)	(NE)	(NF)	(NG)	(NH)	(NI)	(NJ)	(NK)	(NL)	(NM)	(NO)	(NP)	(NQ)	(NR)	(NS)	(NT)	(NU)	(NV)	(NW)	(NX)	(NY)	(NZ)	(OA)	(OB)	(OC)	(OD)	(OE)	(OF)	(OG)	(OH)	(OI)	(OJ)	(OK)	(OL)	(OM)	(ON)	(OO)	(OP)	(OQ)	(OR)	(OS)	(OT)	(OU)	(OV)	(OW)	(OX)	(OY)	(OZ)	(PA)	(PB)	(PC)	(PD)	(PE)	(PF)	(PG)	(PH)	(PI)	(PJ)	(PK)	(PL)	(PM)	(PN)	(PO)	(PP)	(PQ)	(PR)	(PS)	(PT)	(PU)	(PV)	(PW)	(PX)	(PY)	(PZ)	(QA)	(QB)	(QC)	(QD)	(QE)	(QF)	(QG)	(QH)	(QI)	(QJ)	(QK)	(QL)	(QM)	(QN)	(QO)	(QP)	(QQ)	(QR)	(QS)	(QT)	(QU)	(QV)	(QW)	(QX)	(QY)	(QZ)	(RA)	(RB)	(RC)	(RD)	(RE)	(RF)	(RG)	(RH)	(RI)	(RJ)	(RK)	(RL)	(RM)	(RN)	(RO)	(RP)	(RQ)	(RR)	(RS)	(RT)	(RU)	(RV)	(RW)	(RX)	(RY)	(RZ)	(SA)	(SB)	(SC)	(SD)	(SE)	(SF)	(SG)	(SH)	(SI)	(SJ)	(SK)	(SL)	(SM)	(SN)	(SO)	(SP)	(SQ)	(SR)	(SS)	(ST)	(SU)	(SV)	(SW)	(SX)	(SY)	(SZ)	(TA)	(TB)	(TC)	(TD)	(TE)	(TF)	(TG)	(TH)	(TI)	(TJ)	(TK)	(TL)	(TM)	(TN)	(TO)	(TP)	(TQ)	(TR)	(TS)	(TT)	(TU)	(TV)	(TW)	(TX)	(TY)	(TZ)	(UA)	(UB)	(UC)	(UD)	(UE)	(UF)	(UG)	(UH)	(UI)	(UJ)	(UK)	(UL)	(UM)	(UN)	(UO)	(UP)	(UQ)	(UR)	(US)	(UT)	(UU)	(UV)	(UW)	(UX)	(UY)	(UZ)	(VA)	(VB)	(VC)	(VD)	(VE)	(VF)	(VG)	(VH)	(VI)	(VJ)	(VK)	(VL)	(VM)	(VN)	(VO)	(VP)	(VQ)	(VR)	(VS)	(VT)	(VU)	(VV)	(VW)	(VX)	(VY)	(VZ)	(WA)	(WB)	(WC)	(WD)	(WE)	(WF)	(WG)	(WH)	(WI)	(WJ)	(WK)	(WL)	(WM)	(WN)	(WO)	(WP)	(WQ)	(WR)	(WS)	(WT)	(WU)	(WV)	(WW)	(WX)	(WY)	(WZ)	(XA)	(XB)	(XC)	(XD)	(XE)	(XF)	(XG)	(XH)	(XI)	(XJ)	(XK)	(XL)	(XM)	(XN)	(XO)	(XP)	(XQ)	(XR)	(XS)	(XT)	(XU)	(XV)	(XW)	(XX)	(XY)	(XZ)	(YA)	(YB)	(YC)	(YD)	(YE)	(YF)	(YG)	(YH)	(YI)	(YJ)	(YK)	(YL)	(YM)	(YN)	(YO)	(YP)	(YQ)	(YR)	(YS)	(YT)	(YU)	(YV)	(YW)	(YX)	(YZ)	(ZA)	(ZB)	(ZC)	(ZD)	(ZE)	(ZF)	(ZG)	(ZH)	(ZI)	(ZJ)	(ZK)	(ZL)	(ZM)	(ZN)	(ZO)	(ZP)	(ZQ)	(ZR)	(ZS)	(ZT)	(ZU)	(ZV)	(ZW)	(ZX)	(ZY)
TOTAL UNWEIGHTED	188	101	87	46	37	35	28	38	45	36	22	40	43	37	62	46	52	51	80	156	20	188	83	105																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
TOTAL WEIGHTED	403	214	190	177	92	60	26	44	107	67	41	105	75	75	145	109	178	106	111	319	48	403	208	195																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
%	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)	(T)	(U)	(V)	(W)	(X)	(Y)	(Z)																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
Yes	188	116	71	92	37	36	11	11	48	21	15	66	46	27	63	51	78	60	46	159	20	188	116	72																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
%	46.5	54.5	37.5	52.0	40.3	60.1	40.8	24.2	45.2	32.1	37.4	62.4	61.7	36.6	43.7	46.5	43.7	56.9	40.9	49.9	42.5	46.5	55.6	36.8																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
No	205	90	115	85	53	23	10	51	58	41	25	39	28	45	78	54	95	43	63	151	26	205	91	114																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
%	50.8	42.0	60.7	48.0	58.0	37.6	39.9	69.6	54.5	61.4	59.8	37.4	36.9	60.4	53.6	50.2	53.6	40.2	56.5	47.1	54.6	50.8	43.9	58.2																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
Don't know	10	7	3	-	1	1	5DE	2	0	4	1	0	1	2	4	3	5	2	3	9	1	10	1	9																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
%	2.5	3.1	1.7	-	1.6	2.3	19.3	4.4	C.3	5.4	2.8	0.2	1.4	3.0	2.7	2.6	2.7	2.3	2.6	2.7	2.9	2.5	0.5	4.6																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
Refused	1	1	-	-	-	-	-	1	-	1	-	-	-	-	-	1	-	1	-	1	-	1	-	1																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
%	0.2	0.4	-	-	-	-	-	1.7	-	1.1	-	-	-	-	-	0.7	-	0.7	-	0.2	-	0.2	-	0.4																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		



**THE CENTER FOR  
FOOD SAFETY**  
660 PENNSYLVANIA AVE., SE, SUITE 302, WASHINGTON, DC 20003  
(202) 547-9359 \* FAX (202) 547-9429  
2601 MISSION ST., SUITE 803, SAN FRANCISCO, CA 94129  
(415) 826-2770 \* FAX (415) 826-0570  
WWW.CENTERFORFOODSAFETY.ORG

(sig=.05) (n,k) columns tested BC, DEFGH, IJKLM, MNOP, QRS, TU, VWX  
Note: Frequencies are reported in 100,000's.  
2147 = 214,700,000 which represents the U.S. Population 18 years of age or older.